

## REMARKS/ARGUMENTS

In the Office Action mailed October 18, 2007, claims 1-30 were rejected. In response, Applicant hereby requests reconsideration of the application in view of the amended claims and the below-provided remarks. No claims have been added.

For reference, claims 1, 16-17, and 28-30 are amended, and claim 15 is canceled. In particular, claims 1, 16-17, and 28-30 are each amended to clarify the reference to at least one of a plurality of wired networks and at least one of a plurality of wireless networks. These amendments are supported, for example, by Figure 1 and the subject matter of the accompanying description in the specification.

### Response to Claim Rejections

Claims 1-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Koyanagi et al. (U.S. Pat. No. 7,187,658, hereinafter Koyanagi) in view of Tennison et al. (U.S. Pat. Pub. No. 2002/0046292, hereinafter Tennison). However, Applicant respectfully submits that these claims are patentable over Koyanagi in view of Tennison for the reasons provided below.

### Independent Claim 1

Claim 1 recites “a network query module configured to query a first network for a plurality of first network characteristics and to query a second network for a plurality of second network characteristics” (emphasis added).

Applicant submits that neither Koyanagi nor Tennison teaches at least the aforementioned limitation of independent claim 1. In particular, it is submitted that the primary citation to Koyanagi does not teach the network query module. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Koyanagi and Tennison is likewise deficient.

The primary citation to Koyanagi relates to obtaining dynamic network information. (Koyanagi, col. 8, lines 58-62.) The Office Action contends that the obtaining dynamic network information meets the aforementioned limitation of independent claim 1. (Office Action, page 2.) Koyanagi expressly teaches two ways the

table management unit (27) may obtain network information: 1) by periodically receiving; and 2) by monitoring. There is no description in Koyanagi or Tennison that would conclude that the obtaining of Koyanagi is a result of querying a network for network conditions. Thus, this contention is respectfully traversed.

Koyanagi expressly teaches that the table management unit (27) periodically receives network information. (Koyanagi, col. 6, lines 25-29.) However, receiving network information is not the same as querying a first network for a plurality of first network characteristics and querying a second network for a plurality of second network characteristics, because periodically receiving network information requires no action on part of the table management unit (27). While network information may be received in response to a query, as described in the present application, Koyanagi offers no description of initiating a query for the network information which is received. Periodically receiving is a passive manner for obtaining network information. Koyanagi is merely concerned with periodically receiving network information at some periodic timeframe, whether or not the data is needed at that particular timeframe. Thus, Koyanagi merely describes passively waiting for network information to arrive without any request for that data. Accordingly, Koyanagi cannot reasonably be interpreted to teach the aforementioned limitation of independent claim 1.

Koyanagi expressly teaches that a data transmission device (30) can select a most appropriate network even in a case which the network conditions change, by monitoring the network conditions. (Koyanagi, col. 9, lines 18-23.) However, monitoring network information is not the same as querying a first network for a plurality of first network characteristics and querying a second network for a plurality of second network characteristics. Monitoring, like periodically receiving, describes incoming data being examined, whether or not the incoming data is received as a result of a query for present network conditions. Moreover, Koyanagi expressly teaches receiving dynamic information about a single network, and stores the information in the information table 26 in which a single ISP discloses the information. (Koyanagi, col. 6, lines 25-29.) However, receiving network information about a single network from a single ISP is not the same as querying a first network for a plurality of first network characteristics and querying a second network for a plurality of second network characteristics, because the

periodically receiving of Koyanagi is concerned with receiving network information periodically from a single ISP about a single network. Thus, Koyanagi cannot reasonably be interpreted to teach the aforementioned limitation of independent claim 1.

The secondary citation to Tennison relates to wired and wireless networks and is cited for its alleged disclosure of determining a best network service of at least one of a plurality of wired networks and at least one of a plurality of wireless network. (Office Action, page 3.) Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 1 under 35 U.S.C. §103 are respectfully requested.

#### Independent Claims 16-17 and 28-30

Applicant respectfully asserts independent claims 16-17 and 28-30 are patentable over the combination of Koyanagi and Tennison at least for similar reasons to those stated above in regard to the rejection of independent claim 1. In particular, each of these claims recites a query for a plurality of network characteristics. Here, although the language of the claims differs from the language of claim 1, and the scope of the claims should be interpreted independently of claim 1, Applicant respectfully asserts that the remarks provided above in regard to the rejection of claim 1 apply also to the rejections of claims 16-17 and 28-30. Accordingly, Applicant respectfully asserts claims 16-17 and 28-30 are patentable over the combination of Koyanagi and Tennison because Koyanagi does not teach a query for a plurality of network characteristics.

#### Dependent Claims 2, 5-14, 18-27, and 29

Claims 2-14 and 18-27 depend from and incorporate all of the limitations of the corresponding independent claims 1 and 17. Applicant respectfully asserts claims 2-14 and 18-27 are allowable based on allowable base claims. Additionally, each of claims 2-14 and 18-27 may be allowable for further reasons.

### CONCLUSION

Applicant respectfully requests reconsideration of the claims in view of the amendments and remarks made herein. A notice of allowance is earnestly solicited. If the Examiner believes a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact the attorney listed below

Respectfully submitted,

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